

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KYOKO MAKINO

Appeal No. 97-2992
Application No. 08/521,836¹

ON BRIEF

Before THOMAS, KRASS, and BARRY, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 6 through 25, all of the claims pending in the application.

¹ Application for patent filed August 31, 1995. According to appellant, this application is a continuation of Application 08/188,788, filed January 31, 1994, now U.S. Patent No. 5,495,559 issued February 27, 1996.

The invention is directed to a printer. More particularly, a printer is described wherein the printer comprises a non-volatile memory data print command discriminating means which discriminates a control command relating to printing machine code from other commands sent from a host machine. The machine code is printed when the discriminating means discriminates the command relating to printing.

Representative independent claim 6 is reproduced as follows:

6. A printer comprising:

non-volatile memory data print command discriminating means for discriminating a control command relating to printing of machine code data recorded in a non-volatile memory from other commands sent from a host machine, wherein contents of the machine code data includes initial value data for setting various operational conditions of the printer; and

non-volatile memory data printing means for printing out said machine code data recorded in said non-volatile memory when said non-volatile memory data print command discriminating means has discriminated said control command relating to printing out of said machine code data recorded in said non-volatile memory.

The examiner relies on the following reference:

Aslanian et al. [Aslanian] 5,111,384 May 5,
1992

Claims 6 through 25 stand rejected under 35 U.S.C. 102(b)
as anticipated by Aslanian.

We refer to the brief and answer for the respective
positions of appellant and the examiner.

OPINION

We reverse.

Anticipation, under 35 U.S.C. 102, requires that each
element of the claim in issue be found, either expressly
described or under principles of inherency, in a single prior
art reference. Kalman v. Kimberly-Clark Corp., 713 F.2d 760,
772, 218 USPQ 781, 789 (Fed. Cir. 1983).

Each of the instant independent claims requires, inter
alia, a "non-volatile memory data print command discriminating
means" and a "non-volatile memory data printing means." While
the examiner has pointed to many portions of Aslanian [final
rejection, page 2], including Figures 1 and 4, column 2, lines
22-44, column 3, lines 12-37, column 8, lines 3-49, column 9,
lines 20-57, column 10, lines 1-52 and column 20, lines 51-65,
and has indicated, generally, that Aslanian discloses all of

the claimed subject matter, the examiner has not pointed to anything specific, within the disclosure of Aslanian, that corresponds to each of the claimed elements. Our independent review of Aslanian finds no such correspondence of the instant claimed elements with anything disclosed by Aslanian.

In fact, the instant claimed subject matter is directed to a "printer" and the body of the instant claims further define what comprises that printer. Thus, a "printer" must comprise a "non-volatile memory data print command discriminating means" and the printer must also comprise a "non-volatile memory data printing means for printing out machine code data recorded in the non-volatile memory when the data print command discriminating means has discriminated a control command relating to printing out the machine code data recorded in the non-volatile memory."

While Aslanian discloses a printer (10-26 in Figure 1) as an ancillary item in a broader system, the reference is not directed to that printer but, rather, to a system for performing automatic dump analysis when a computer system crashes. (abstract, lines 1 and 9-11). No details of the printer are given by the disclosure of Aslanian and so it would

be mere speculation, at best, on the examiner's part to conclude that Aslanian discloses a printer comprising a non-volatile memory data print command discriminating means and a non-volatile memory data printing means, as set forth in the instant claims.

Since we find no evidence, in Aslanian, of each and every element of the claims in issue, either expressly described or

under principles of inherency, we will not sustain the
rejection of claims 6 through 25 under 35 U.S.C. 102(b).

The examiner's decision is reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
ERROL A. KRASS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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)	
LANCE LEONARD BARRY)	
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